IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V. GIRI

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929
MFA.No. 1425 of 2001()

OPMV.74/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
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APPELLANTS:
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1. S. VARADA RAJAN, S/O. SENGODA NADAR, IYYARTHOTTAM, LADDUVADI P.O., ATTUR TALUK, SALEM DISTRICT, TAMIL NADUM.

2. SMT. PALANI AMMAL, W/O. VARADA RAJAN, DO. DO.

3. KUM. NIRMALADEVI, D/O. VARADA RAJAN, DO. DO.

BY ADV. SRI.T.N.MANOJ
SRI.DINESH R.SHENOY

RESPONDENTS:
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1. THE MANAGING DIRECTOR, KSRTC, THIRUVANANTHAPURAM.

2. MR. VISWANATHAN NAIR, S/O. A.K. NAIR, KOLAMANGALAM, VALANCHERY VILLAGE, MALAPPURAM DISTRICT.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & V.Giri, JJ.
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M.F.A.No.1425 of 2001
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Dated this the 23rd day of August, 2007.

JUDGMENT

Koshy,J

Father, mother and sister of a motor accident victim filed an application for compensation contending that Senthil Kumar, son of applicants 1 and 2 while travelling in a lorry from Kochi to Selam, a K.S.R.T.C. bus driven by the second respondent and owned by the first respondent, in a rash and negligent manner hit the lorry and he succumbed to the injuries suffered.

2. The claim was for Rs.4,00,000/-. But the Tribunal has awarded only Rs.1,21,000/-. For loss of dependency, the amount awarded was only Rs.1,08,000/-. The Tribunal found that the accident occurred due to the negligent driving of the bus by the second respondent.

3. The only dispute is regarding the quantum of compensation. According to the claimants, the deceased was 21 years old. The medical certificate will show that he was aged 20. The Tribunal has taken 15 as the multiplier. It is contended by the appellant that in view of the judgment of the Apex Court, highest multiplier should have been taken if the victim is aged between 20 and 25 and considering the life span of the person, at least 20 should be taken as the multplier. Here, we note that the victim's father was aged 45 and mother was aged 40 and it is settled law that in the case of death of a bachelor, the age of the

claimant also should be looked into. Here, multiplier of 15 needs no change. Ext.A6 certificate produced will show that the victim was an employee in the same lorry in which he was travelling and Rs.1,700/- was the monthly salary. According to the claimants, apart from the above, the deceased was getting daily batta to cover expenses in the journey. It is contended by the appellants that future prospects should have also been taken into consideration**.** In the second Schedule notional annual income of non earning person was fixed as Rs.15,000/- (even for a child) and family contribution as Rs.10,000/-. Here the accident victim was an earning person. The accident occurred while travelling in the lorry for the purpose of his employment. We are of the opinion that at least Rs.1,700/- as monthly salary should be taken into consideration. If that be so, after deducting the amount required for personal expenditure, the monthly contribution to the family is fixed at Rs.1000/- and yearly contribution as Rs.12,000/-. We are of the view that compensation payable for loss of dependency should have been 1000 x 12 x 15 = Rs.1,80,000/- and the Tribunal has awarded an amount of Rs.1,08,000/-. Therefore the claimants are also entitled to an additional amount of Rs.72,000/-. The Tribunal also did not award any cost. We are of the opinion that the Tribunal ought to have awarded cost. It is contended that the compensation under other heads was very low. We are not enhancing the compensation on the facts of this case. The first respondent is directed to deposit the additional compensation of

Rs.72,000/- with interest at 7% per annum from the date of petition till the date of deposit over and above the decreed amount by the Tribunal with costs throughout. The amount shall be disbursed in the same proportion and manner as held by the Tribunal.

Appeal is allowed with costs throughout.

J.B.Koshy,Judge.

V.Giri,Judge.

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P.R.Raman & Antony Dominic, JJ.
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M.F.A.No.1425 of 2001
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Dated this the 20th day of March, 2007.

JUDGMENT

Raman,J.

None appeared when the case was called. Dismissed for default.

P.R.Raman,
Judge.

Antony Dominic
Judge.

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